

**JOINT PROSECUTION AND CONFIDENTIALITY AGREEMENT BETWEEN THE  
UNITED STATES DEPARTMENT OF JUSTICE, UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY, NEW YORK STATE ATTORNEY  
GENERAL AND NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL  
CONSERVATION REGARDING POTENTIAL CLAIMS AGAINST TONAWANDA  
COKE CORPORATION**

1. This agreement reflects the mutual understanding between the United States Department of Justice ("DOJ"), United States Environmental Protection Agency ("EPA"), New York State Attorney General ("AG"), and New York State Department of Environmental Conservation ("DEC") with respect to privileges that may be asserted in potential civil enforcement actions, whether administrative or judicial, arising from violations of federal and state law at the Tonawanda Coke Corporation Facility in Tonawanda, New York (the "Facility").
2. DOJ, EPA, AG, and DEC (jointly referred to as the "Parties") share close and common interests in the enforcement of federal and state environmental laws at the Facility. The Parties accordingly agree that the sharing of information by their employees, consultants, agents and counsel will further their common enforcement goals.
3. Specifically, the Parties have been consulting with one another in anticipation of a potential enforcement action relating to the Facility and/or Tonawanda Coke Corporation ("TCC") for violations of state and federal laws, and expect such consultation to continue throughout the enforcement process.
4. The Parties expect that this consultation may lead to a joint prosecution of at least some claims against TCC relating to the Facility.
5. The Parties recognize and agree that all written and oral communications related to any investigations regarding violations at the Facility, litigation and settlement strategy related to any such violations, or any other matters related to potential judicial or administrative enforcement actions against TCC or related to the Facility are being made in anticipation of litigation.
6. The Parties do not intend through their consultations, either before or after the initiation of litigation, to waive any privileges, such as (but not limited to) attorney-client and work product privileges, which would otherwise attach to any information, documents, or communications shared between them. The State and the United States specifically intend that all such privileges shall be preserved, and that privileged information shall be protected from disclosure to TCC or to any third party, except with respect to disclosures agreed to by the Parties and any disclosures which are compelled by a court of competent jurisdiction or otherwise mandated pursuant to federal or New York law.
7. The Parties further agree to consult with each other before producing any documents relating to the Facility and/or TCC, whether such production is made voluntarily, in response to any discovery request, or pursuant to any other law or regulation.

8. The Parties agree and acknowledge that the common interest privilege and confidentiality established by this agreement is held jointly by all parties and that none of the parties are authorized to waive the privilege with respect to any information or documents shared pursuant to this Agreement.

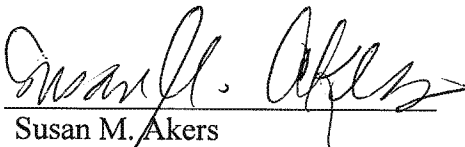
9. The Parties shall each take all necessary and appropriate measures to ensure that any person who is granted access to any confidential information or documents shared pursuant to this Agreement is familiar with the terms of this Agreement and complies with such terms as they relate to the duties of such person.

10. The confidentiality obligations established by this Agreement shall remain in full force and effect, without regard to whether the Agreement is terminated pursuant to Paragraph 11 and without regard to whether the Claims are terminated by final judgment or settlement.

11. Any one of the Parties may terminate this agreement, subject to Paragraph 10, by notifying the other parties of its intention to withdraw from this Agreement.

FOR THE UNITED STATES DEPARTMENT OF JUSTICE:

Date: 6/11/12

By:   
Susan M. Akers  
Senior Attorney

FOR THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY:

Date: May 17, 2012

By:



Erick Ihlenburg

FOR THE NEW YORK STATE ATTORNEY GENERAL AND THE NEW YORK  
STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION:

Date: 3/30/2012

By: 

Joseph M. Kowalczyk  
Assistant Attorney General